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# In the Supreme Court of the United States

OCTOBER TERM, 1972

## NO. 72-1033

STEVE RUSS,

*Petitioner,*

*vs.*

MIRA COMPANIA NAVIERA, S.A
and STRAVELAKIS BROS. CO., LTD.,

*Respondents.*

## PETITIONER'S REPLY BRIEF IN SUPPORT OF PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

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Perhaps it is that morality derives much of its impetus in and from pragmatism.

So too, it may well be that petitioner is asking for and hoping to achieve victory by decrying conduct that should not be, but has been sanctioned.

If, however, the essence of a rule of law rather than selective judicial permissiveness is to prevail, it is extremely important that gross and flagrant violations of the rules be appropriately dealt with in a constructive manner.

Neither the District Court or the Court of Appeals have chosen to include one fact in their opinions.

The respondents herein have also not included one fact in their brief which might aid this Honorable Court in viewing the conduct complained of in a manner contrary to that which the petitioner has asserted and the cold record would compel.

That the District Court and the Court of Appeals have countenanced the flagrant violations of the rules and "sharp practice" herein only makes that conduct more imposing as it is accepted at each succeeding level of the judicial system.

We do not quarrel with respondents' statement that:

> "Respondent has found no case in which this Court has specifically stated that it accepted certiorari on the grounds that the Appellate Court '. . . has so far departed from the accepted and usual course of judicial proceedings, or so far sanctioned such a departure by a lower court as to call for an exercise of that court's power of

supervision.' Rule 19 of the Rules of this Court." (Brief in Opposition to Petitioner's Petition, p. 5)

However, we are here complaining not of rules of substantive law, but rather of those dealing solely and directly with the course of judicial conduct and proceedings. It is the sanctioning of these proceedings in the lower court by the Court of Appeals, which gives greater moment to such, that calls forth the necessity for this Honorable Court to exercise the power of supervision which it possesses.

The respondents, by their lightly touched brief, appear to ask this Honorable Court not to look at what has happened and to issue the equivalent of a "writ of short shrift."

We respecfully pray that certiorari issue and the respondents come to grips with their actions in an open and meaningful manner.

Respectfully submitted,

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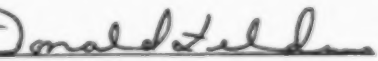
By 
Donald Feldman

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing Petitioner's Reply Brief in Support of Petition for a Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit was delivered by hand to Smathers & Thompson, Attorneys for Respondents MIRA and STRAVELAKIS, 1301 Alfred I. duPont Building, Miami, Florida 33131, this 20 day of February, 1978.

Donald Tilden